

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DARREN THOMAS,)	
)	
Petitioner,)	
)	
v.)	No. 4:07CV1673 JCH
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

 This matter is before the Court on respondent's motion to dismiss petitioner's petition for writ of coram nobis. The motion will be denied, and respondent will be directed to address the merits of the petition.

 On July 23, 1992, petitioner was charged with distribution of heroin. On September 13, 1993, petitioner, proceeding pro se (with standby counsel), entered pleas of guilty on all counts. On November 30, 1993, petitioner was sentenced by this Court to fifteen months' imprisonment and three years' supervised release.

 Petitioner filed the instant writ on September 24, 2007, on the ground that he was denied effective assistance of counsel in violation of the Sixth Amendment. Petitioner claims that his 1993 judgment has been used to enhance the sentence of imprisonment that he is currently serving. Petitioner seeks to void the 1993 judgment in order to lessen his current sentence.

The government has moved to dismiss this case solely on the basis that the petition is time-barred under 28 U.S.C. § 2255. The argument has no merit. Writs of coram nobis arise under 28 U.S.C. § 1651 and are not subject to § 2255's one-year period of limitations. E.g., 39 Am. Jur. 2d Habeas Corpus §§ 231-232. As a result, the motion will be denied. The government shall file a response to the petition within 45 days of the date of this Memorandum and Order. The government's response shall address the merits of the petition as well as any procedural defenses.

Accordingly,

IT IS HEREBY ORDERED that respondent's motion to dismiss [#3] is **DENIED**.

IT IS FURTHER ORDERED that the government shall file a response to the petition within 45 days of the date of this Memorandum and Order. The government's response shall address the merits of the petition as well as any procedural defenses.

Dated this 20th Day of November, 2007.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE